

REMARKS

Claims 1, 2, and 13-26 remain before the Examiner for reconsideration.

Applicant and the undersigned attorney for Applicant wish to thank the Examiner for the courtesy extended by the Examiner in the telephone interview of July 19, 2001.

In the Office Action, the Examiner rejected Claims 1, 2, 13 and 14-18 under 35 U.S.C. Section 102(b) "as being clearly anticipated by Harkness [U.S. Patent No. 5,467,992]." Specifically, the Examiner asserted that:

Harkness discloses a device support member worn around a person's head and an attached laser light (abstract) generating a linear alignment beam of light visible to the person to provide an alignment of the person's body when in position to perform the task as stated in claims 1 and 2 (figs. 2 and 3). Harkness also discloses a cylindrical lens and positions of the lens directing the beam of light as in claim 2 (fig 4 and col 3, lines 20-26).

In response to the Applicant's arguments set forth in the Amendment filed March 15, 2001, the Examiner asserted the following:

The applicant argues Harkness does not disclose a cylindrical lens positioned transversely to a light beam emanating from the laser. Harkness clearly states a lens may be fastened to the free end of the laser to further focus the light (col 3, lines 20-26). Applicant also argues the reference discloses a method for using a light spot projecting aid to observe movements during a golf swing and does not disclose a method for aligning the user's body. The Examiner disagrees. First, the method of use is not relevant to the apparatus claims. The intended use of an apparatus can not further limit the structure. Secondly, the new method claims are encompassed by Harkness. Alignment and movement are synonymous in this instance. Col 6, lines 8-10 reveals the device used to identify excessive movements of the head and upper body. A beam of light is used to watch for excessive movement before and during a swing or in other words adjusting his/herself to achieve an optimal golfing stance prior to and during the swing. Applicant uses the beam of light to align his/her

body to achieve the proper stance before the swing. Both methods are intended for the user to achieve a proper stance prior a golf swing. Harkness does not use the word alignment but the method inherently speaks to the user positioning the head and the upper body to achieve a proper swing.

Applicant's respectfully traverse the Examiner's assertion.

As explained to the Examiner in the interview of July 19, 2001, Harkness discloses the use of a light spot projected onto the ground to aid a golfer in observing head movement during a golf swing. Indeed, the scope of the invention of Harkness is set forth in the abstract of Harkness as follows:

A method for using a light spot projecting aid to observe head movements during a golf swing and to provide a golfer with an explanation (i.e., cause) of the effect manifested as the light spot being moved.

(Emphasis added). To allow the user to observe such head movements, Harkness discloses attaching a light source such as a laser to a golfer's visor or hat to generate a light spot that is visible to the golfer. See, for example, Figures 1 and 2 of Harkness.

The light spot generated by Harkness on the surface does not disclose or suggest the generally linear beam of light generated on a surface to indicate the alignment of a portion of a persons body. To more clearly illustrate this point, Applicant has submitted with this Response a drawing (Figure B) illustrating a top plan view of a golfer wearing the device of Harkness and a drawing (Figure B) illustrating a top plan view of a golfer wearing a device of the present invention.

As illustrated in Figure A the golfer's shoulders are aligned or angled to the left of the target line while the golfers head and the plane including the golfer's eyes are aligned or angled to the right of the target line. The device of Harkness (shaded in Figure A) on the cap of the golfer, projects a spot of light in front of the golfer. The projected spot provides absolutely no information to the golfer of the alignment of any

portion of the golfer's body. The spot of light does not even provide information as to the alignment of the cap on the golfer's head (which need not be aligned with the orientation of the golfer's head) as the device need not be placed on the cap to project the light in any specific orientation. The spot of light projected need only be visible to the golfer. If during the golf swing the golfer's head moves, the spot of light generated by the device of Harkness will also move. Seeing the movement of the spot of light, the golfer will be informed that his or her head has moved during the swing.

As illustrated in Figure B, the golfer's shoulders are positioned square to or aligned with the target line, while the golfer's head and the plane including the golfer's eyes are aligned to the left of the target line. Unlike the device of Harkness, the device of the present invention (shaded in Figure B) includes a light source attached to the support member of the device worn by the golfer to generate a generally linear, alignment beam of light on a surface visible to the person. The generally linear beam of light projected on the surface provide direct and real time information to the person of the alignment the person's eyes as the device is worn in Figure B. In that regard, the generally linear alignment beam is generally parallel to the orientation of the golfer's eyes. The device of Harkness cannot provide such information of alignment.

The device of the present invention is particularly useful to provide assistance to a person in achieving proper alignment of a portion of the person's body in a desired direction when the person is in position to execute a golf stroke as illustrated in Figure B. In the embodiment of Figure B of the present invention, the light source preferably generates a generally linear, alignment beam of light on a surface visible to the person that is generally parallel to a line passing transversely through the portion of the person's body (for example, generally parallel to the plane or the line including the eyes of the golfer) to provide to the person an indication of the alignment of the portion of the person's body. For example, in a putting stroke, it is believed that the eyes should be

aligned (or that a line running transversely through the eyes should be aligned) generally parallel to the target line.

One manner of producing a generally linear beam of light upon a surface as disclosed in the present invention is to position a generally cylindrical lens transverse to a light beam emanating from a light source such as a laser. Contrary to the Examiner's assertion, Harkness does not disclose or suggest a generally cylindrical lens positioned transversely to a light beam emanating from the laser to create a planar beam of light which forms the generally linear, alignment beam as claimed in the present invention. Once again, Harkness merely discloses a lens 15 that "may be fastened to the free end of the laser 14 to further focus - in other words, reduce the size of - the **light spot** 16 if desired." Col. 3, lines 24-26. The Examiner has not and cannot point out where in the disclosure of Harkness (and, particularly at col. 3, lines 20-26 referenced by the Examiner) a cylindrical lens positioned transversely to a light beam emanating from the laser is disclosed or suggested.

The Examiner also rejected Claims 1, 2, 13, 14-18, and 21-24 under 35 U.S.C. 102(e) "as being clearly anticipated by Variano [U.S. Patent No. 5,800,278]." The Examiner did not further explain the rejection of Claims 1, 2, 13, 14-18, and 21-24 under 35 over Variano. Applicant respectfully traverses the Examiner rejection.

Initially, Applicant believes that his date of invention predates the Variano and thus Variano is not prior art. Applicant reserves the right to swear behind the Variano reference.

As explained to the Examiner in the interview of July 19, 2001, however, Variano is irrelevant to the present invention. In that regard, Variano discloses the use of an infrared beam of light projected from a cap of a person to a radiation detector positioned, for example, on a golf club. Infrared light is not visible to humans. For this and other reasons, the device of Variano cannot generate a generally linear, alignment

beam of light on a surface visible to the person that provides to the person an indication of the alignment of a portion of the person's body as claimed in the present invention.

The Examiner also rejected Claims 19-26 are rejected under 35 U.S.C. Section 103(a) "as being unpatentable over Harkness." Specifically, the Examiner asserted that:


Harkness does not disclose the device around the chest or hips of the user. However, Harkness does disclose the device as being interchangeable among different items. One skilled in the art would have placed the device around the chest or hips to identify the proper stance. Regarding the claims 21-24, Harkness reveals that the device may be used to identify excessive movements of the head and upper body (col 6, lines 8-10). Alignment and movement are synonymous in this instance. The reference uses the beam of light to watch for excessive movement before a swing or in other words adjusting his/herself to achieve an optimal golfing stance prior to the swing. Applicant uses the beam of light to align his/her body to achieve the proper stance before the swing.

For the reasons set forth above, Applicant respectfully traverses the Examiner's rejection. As explained above, alignment and movement are clearly not synonymous.

In view of the above amendments and remarks, the Applicant respectfully requests that the Examiner withdraw the rejection of the claims, indicate the allowability of Claims 1, 2, and 13-26 and arrange for an official Notice of Allowance to be issued in due course.

Respectfully submitted,

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